IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

RPFC.No. 91 of 2003()

MC.69/2002 of FAMILY COURT, KOZHIKODE
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REVISION PETITIONER/RESPONDENT

VALAVIL SAIDALAVI, S/O. ALAVI,
THAVITTERI PARA MEETHAL, VELLIPARAMBU,
(MEDICAL COLLEGE POLICE STATION LIMIT),
KOZHIKODE DISTRICT.

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS: PETITIONERS
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1. SUBAIDA, D/O. MUHAMMED,
PONGUZHI MEETHAL, UMMALATHUR, KOZHIKODE.

2. SHAMSEERA JABIL, D/O. SAIDALAVI,
AGED 10 YEARS.

3. JAMSHAD ALI, S/O. SAIDALAVI,
AGED 8 YEARS.
(RESPONDENTS 2 AND 3 MINORS ARE REPRESENTED BY
THE 1ST RESPONDENT MOTHER AND GUARDIAN)

BY SMT.SUBAIDA (PARTY)

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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R.P.(F.C).No.91 of 2003

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Dated this the 24th day of October, 2007

O R D E R

The revision petitioner is the respondent-hushand in M.C.No.69/2002 instituted by the first petitioner wife on her behalf and also on behalf of the two minor children vide Section 125 Cr.P.C. He is under orders to pay maintenance at the rate of Rs.600/- to the first petitioner and Rs.400/- each to petitioners 2 and 3.

2. It is the case of the petitioner in M.C that the revision petitioner/respondent married her on 26/04/1992 and petitioners 2 and 3 are children born in the wedlock. It is submitted that he had misappropriated the gold ornaments and Rs.25,000/- given to her at the time of her marriage and subsequently, she was subjected to mental and physical cruelty demanding more money and that he abandoned her and right now he is residing with his first wife. It is contended that he is running a granite quarry and is getting an income of more than Rs.25,000/- and he is also getting an income of Rs.5,000/- from the agricultural properties. She had claimed maintenance at the rate of Rs.2,000/- per month.

3. The revision petitioner has filed a statement stating that initially the respondent/first petitioner was brought to his residence to look after him as he was ailing due to various diseases. He has denied the allegations as to the misappropriation of the gold ornaments and the amount of Rs.25,000/- given at the time of marriage as well as the income from granite quarry and the properties. According to him the petitioner is a working partner of a restaurant and is getting an amount of Rs.150/- per day and also that she is having 10 cents of land.

4. The evidence adduced in the matter consisted of the testimony of PW.1, RW.1 and Exts.B1 to B11. I find that Exts.B1 to B11 are produced to substantiate the case that he is suffering from various diseases. Exts.B1 to B11 are only prescriptions and O.P tickets, and Ext.B3 is referal O.P ticket which did not disclose any serious ailments. The revision petitioner has stated that he has got wife and three children in another marriage. He is right now aged 62 years. In the circumstances, the amount ordered to be paid as maintenance is modified to rupees four hundred to the respondent/first petitioner. The amount ordered towards maintenance of respondents/petitioners 2 and 3 the minor children are only reasonable and no interference is called for. The revision petition is disposed of accordingly.

Sd/-
K.R.UDAYABHANU,
Judge